



September 23, 2020

At age three, Mark M. didn't speak, showed minimal interest in those around him, and seemed to understand few words. He was prone to destructive tantrums and would run head-first into walls, over and over. A neurologist warned Mark's parents that a lifetime of institutionalization was likely. Then Mark began an intensive ABA program which jump-started his development and led to one gain after another. Before he reached adulthood, Mark no longer met the diagnostic standard for having autism. While this may sound miraculous, he is not unique in this progress.

Dear Chair Frank and members of the House Human Services Committee:

As a result of your leadership in the 86th Legislative Session in 2019, the Texas Legislature adopted Rider 32 in Article II of HB 1, which added applied behavior analysis (ABA) and other medically necessary treatments to the services available to Medicaid-eligible children diagnosed with autism spectrum disorder (ASD).

We thank you for your support of this important benefit. As you know, studies show that close to *half of the children receiving this intervention can be mainstreamed in regular education*, with some even losing their autism diagnosis. Many of these individuals will be able to work and live independently if they receive timely access to ABA treatment. If quality treatment is provided early and effectively to these individuals, the benefits of ABA services have long-term positive fiscal implications for Texas.

We believe there are three key elements to a quality program: 1) policies that ensure fidelity to the ABA model and appropriate utilization of the benefit; 2) rates that are adequate to support access to quality services; and 3) oversight to ensure appropriate utilization. We believe Texas has been thoughtful and deliberate in crafting a draft policy for this benefit that has some of the most stringent requirements in the nation, but we have concerns about the adequacy of the proposed rates contained in the Health and Human Services Commission (HHSC)'s recently submitted request.

We applaud the Commission's decision to move forward as expediently as possible. However, we encourage you and the members of this subcommittee to direct HHSC to revise the rates proposed in

the Request to Exceed letter HHSC sent to the state's leadership recently. **We have serious concerns that the proposed rates will not provide adequate access to services.** To provide adequate access, the rates must support the development of a sufficient provider network. The proposed rates do not accomplish this.

Federal Medicaid regulations (42 CFR447.204) require that Medicaid payment rates are sufficient to enlist enough providers so that care and services are available under the state plan at least to the extent that such care and services are available to the general population in the geographic area. The existing provider base currently struggles to meet the demands of commercial clients. Because of the limited number of providers and the large disparity between commercial rates and proposed Medicaid rates, **we have serious concerns that the rates currently proposed will not allow access to ABA for Medicaid's pediatric population affected by ASD.**

Several billing codes account for the provision of ABA services. The agency's proposed rate for each code is significantly inadequate, but the code most frequently utilized in the provision of these services is the adaptive behavior treatment performed by a Behavior Technician (BT). The proposed rate for this code causes concern. HHSC proposes a rate of \$30.32 per hour for this service. This is 47% below any comparable benchmark in Texas while also requiring the BT to become certified as a Registered Behavior Technician (RBT), an additional cost not always incurred on the commercial side:

- In 2018, the Texas statewide weighted average for commercial BT hourly reimbursement rate was \$57.23.
- Effective 2019, the unweighted average TRICARE RBT hourly reimbursement rate in TX is \$57.87.
- Neighboring states, such as Oklahoma and New Mexico, have Medicaid rates at or above the commercial average.

With rates at this unsustainable level, most providers will not be able to accept Medicaid patients. Additionally, when surveyed, 91% of Texas providers want to serve the Medicaid population but when presented with the proposed rates this number drops precipitously to 17%. This will create challenges for the managed care organizations tasked with building an adequate network of providers. Additionally, without an adequate provider base, Medicaid beneficiaries will encounter significant and detrimental delays.

We request that you provide approve the agency's request to implement the program pending the adoption of sustainable rates. Should you need additional information, please do not hesitate to contact me at [REDACTED]. Thank you for your consideration and we look forward to working with you to provide a much-needed program for Medicaid-eligible children with autism.

Respectfully,



Christa Stevens, JD, MAT
Director State Government Affairs

Attachment: Benchmark Rate Data

Given the percentage of service hours delivered by the Registered Behavior Technician (RBT) relative to all other professionals on the ABA care team, the hourly reimbursement rate for this skill level is the most critical to ensure a quality provider network. The Board-Certified Behavior Analyst (BCBA) fills the critical roles of assessing, treatment planning, programming, supervision, and parent engagement.

The following commercial benchmark data provides Texas rates in key Metropolitan areas.

2018 Hourly Commercial Rates in TX for BT and BCBA

MSA	BT Services		BCBA Supervision	
	50th Percentile Hourly Rate	75th Percentile Hourly Rate	50th Percentile Hourly Rate	75th Percentile Hourly Rate
Amarillo	\$ 50.00	\$ 50.00	n/a	n/a
Austin-Round Rock	\$ 51.97	\$ 60.00	\$ 84.07	\$ 103.12
Corpus Christi	\$ 60.00	\$ 60.00	\$ 96.00	\$ 96.00
Dallas-Plano-Irving	\$ 60.00	\$ 60.00	\$ 96.00	\$ 96.00
El Paso	\$ 86.00	\$ 86.00	n/a	n/a
Fort Worth-Arlington	\$ 60.00	\$ 60.00	\$ 96.00	\$ 96.00
Houston-The Woodlands-Sugar Land	\$ 55.41	\$ 60.00	\$ 79.26	\$ 96.00
Killeen-Temple	\$ 50.00	\$ 50.00	\$ 120.00	\$ 120.00
Lubbock	\$ 48.00	\$ 48.00	\$ 72.00	\$ 72.00
McAllen-Edinburg-Mission	\$ 60.00	\$ 60.00	\$ 90.00	\$ 90.00
Midland	\$ 60.00	\$ 60.00	\$ 96.00	\$ 96.00
San Antonio-New Braunfels	\$ 54.37	\$ 60.00	\$ 91.05	\$ 96.00
Waco	\$ 50.00	\$ 60.00	\$ 96.00	\$ 120.00
Wichita Falls	\$ 60.00	\$ 60.00	\$ 96.00	\$ 96.00
Texas	\$ 57.23	\$ 59.75	\$ 89.22	\$ 97.60

Source: Benchmark rates are derived from Truven 2018 commercial claims data.